



City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council
THROUGH: Sherilyn Lombos, City Manager
FROM: Stacy Ruthrauff, Human Resources Director
DATE: February 8, 2021

SUBJECT:

Labor Negotiations Training

EXECUTIVE SUMMARY:

This training will provide a brief overview of the Collective Bargaining Process, the Public Employees Collective Bargaining Act (PECBA) requirements of Bargaining, and the City's philosophy about the Bargaining Process.

1. The City of Tualatin Workforce Snapshot

- Two Unions and the remainder are Non-Union/Unrepresented Staff
 - Tualatin Police Officers Association (TPOA) – 31 Employees – Strike Prohibited Unit
 - American Federation of State, County, Municipal Employees/Tualatin Employees Association (AFSCME/TEA) – 97 Employees – Strike Permitted Unit
 - Unrepresented Employees (Exempt and Non-Exempt Management & Temporary Employees) – Not Represented by a Union

2. Bargaining Timelines

- AFSCME expires June 30, 2021.
 - AFSCME Bargaining will begin in Mid-February
- TPOA contract will expire on June 30, 2022

3. What is Collective Bargaining and Why do we Engage in the Process?

- The term “collective bargaining” generally refers to the process by which a union and City engage in a series of negotiations to create a finalized contract that will govern the subjects of bargaining.
- Collective Bargaining Mandated by State Law

4. State Law – Public Employee Collective Bargain Act (PECBA)

Outline of the Law

- First established in 1973
- Gives Oregon public employees the right to form, join, and participate in labor unions.
- Requires public employer and the union representing the public employees to meet and bargain directly with each other (ORS 243.712(1)).

Outline of Process

- **150-day Bargaining** - Both parties participate in good faith negotiations
 - Bargaining in good faith means:
 - You agree to meet regularly at reasonable times and places;
 - Endeavor to reach agreement;

- Consider and respond to proposals;
 - Do not bypass the authorized bargaining agent;
 - Or otherwise undermine the other side's representative.
 - Good faith does not require you to make concessions, change your proposal, or agree to any particular union proposal to reach agreement.
- During the course of bargaining the union and the City's negotiating team will meet regularly at designated time to discuss the contract and the Articles contained within the contract.
 - Initial meeting will generally set ground rules and set a moratorium date for when Articles can be considered open (typically the 4th or 5th bargaining session)
- Tentative Agreement (TA) – the parties agree to language, subject to final ratification.
- The contract remains tentative until it has been formally approved by the union's members and then ratified by Council.

- **After 150 day Bargaining - Possible Outcomes**

- **Ratification** - If the tentative agreement is ratified by both sides, then the parties have a new (or successor) agreement. If the tentative contract agreement is not ratified—by either party—the teams usually go back to the bargaining table and continue negotiations. They negotiate until they are able to bring back a new tentative agreement for a vote.
- **Mediation** – If the Parties are unable to agree, the parties must contact the Employment Relations Board to conduct mediation.
 - Must mediate for at least 15 days.
- **Impasse** - If the parties are unable to agree after mediation, then either party may declare impasse.
- **Final Offer** – Once impasse is declared each party must make a “Final Offer” within 7 days of the declaration impasse.
 - **Petition to Arbitrate** - For Strike Prohibited Units like TPOA, the parties must petition to arbitrate.
- **Cooling Off** – Once Final Offers are exchanged, there is a 30 day mandatory “cooling off” period. The parties may continue to try to come to resolution during this period.
- **After Cooling Off**
 - **Strike Permitted Units (AFSCME)**
 - **City Implement** – After the Cooling Off period, the City may implement the Last Best Offer
 - **Union Strike**- After the Cooling Off, the Union can strike, or it can simply “live with” the Last Best Offer
 - **Strike Prohibited Units**
 - Strike Prohibited Units Proceed to Arbitration
 - Last Best Offers must be exchanged 14 days before the arbitration hearing
 - If no agreement, then the Arbitration Hearing occurs
 - Arbitrator Issues a Decision 30 days from the Hearing
 - (scheduled after Cooling Off Period)

Contract - Once a contract is finalized, the union and City are responsible to abide by the terms covered in the contract for the duration of the contract.

5. City Council's Role in Contract Bargaining

- Meet in executive session with the contract negotiator to discuss matters related to negotiations
- Establish Economic Parameters for Negotiation – salary, benefits, etc.
- Negotiator value: to distance each independent elected official; to set parameters of authority for the bargaining team
- During executive session, staff will come to you with updates and recommendations and to look to you for guidance on economic and other issues;
- Ongoing discussions about negotiations and any impediments to reaching agreement.
- Final ratification authority - The tentative agreement will be brought before Council to formally ratify the contract
- One pitfall – be mindful of an Unfair Labor Practice (ULP). An unfair labor practice in Oregon is governed by ORS 243.672.
 - The statute prohibits certain actions taken by employers or unions that violate PECBA.
 - One way an ULP can tend to occur is with an “End Run” during Council Meetings or Side Bargaining from the Union
 - For Example: Any individual from the Union may approach you and want to discuss the bargaining process. As negotiations continue, the union may seek meetings with individual elected official(s) to discuss the agency's bargaining position. Such meetings can lead to an unfair labor practice accusation of “direct dealing.”
 - Avoid any action that would appear the City is interfering in the union's relationship with the employees it represents.
 - The best way to avoid a ULP is to discuss conversations with your City's bargaining representatives and confer about singular union meetings prior to their occurrence.

6. Tualatin's Philosophy on Bargaining

- The Bargaining process and negotiated contract is a chance to show our belief that our employees are our biggest asset and most valuable resource
- Effective bargaining is based on ideals that resonate with both workers and employers, such as working together to solve problems and treating each other with respect. Bargaining allows both the Union and the City to exchange views and resolve the issues being bargained.
- Bargaining sets the work tone for the City in a variety of ways, i.e. expectations of employees, how we value their work, how they are compensated, and expectations in the workplace.
- We have a multiyear relationship with both AFSCME and TPOA that is respectful and transparent.
- This working relationship has built trust between the City and the Unions which helps the Bargaining Process to ultimately be successful.
- Detailed effort of spending the time and effort on our contracts and negotiations to ensure the appropriate balance between current financial status of the City is maintained while also meeting the needs of the Union.

7. What to Expect as Bargaining Begins

- The City will begin the bargaining process with AFSCME in the near future.
 - HR/Finance will present updates on the process, seek guidance and financial direction throughout the bargaining process during Council Executive Sessions
 - We will negotiate with our Associations in a fair and equitable process.
 - We will rely on our Council to set policy, authorize funding and stay confidential.
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ATTACHMENTS:

- Public Employee Collective Bargaining Process PowerPoint